

**AMENDMENT UNDER 37 CFR 1.111  
USAN 10/033,775**

**REMARKS**

The claims have been amended so that they are directed to the invention embodiments involving two adult treadmill users. New claim 25 corresponds to claim 6 except for depending on claim 5. New claim 26 corresponds to claim 18 except for depending on claim 17.

Entry of the above amendment is respectfully requested.

**Information Disclosure Statement**

An Information Disclosure Statement is being submitted herewith together with a check for the \$180.00 fee. The Examiner is respectfully requested to consider the disclosed information and return an initialed copy of the PTO/SB/08 form with the next communication from the PTO.

**Drawings**

On page 2 of the Office Action, in paragraph 1, the Examiner has objected to the drawings under 37 C.F.R. 1.83(a), because the drawings must show every feature of the invention specified in the claims. In this regard, the Examiner indicates that the two pairs of rollers and the pair of endless belts must be shown, or else they must be canceled from the claims.

In response, Applicants again submit that these features are shown in Fig. 2. Further, Applicants again submit that even if these features were not shown in Fig. 2, they would not need to be canceled from the claims, because a roller and an endless belt

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are shown in Fig. 1, and one skilled in the art would readily understand that a pair of rollers is two of a roller like the roller shown in Fig. 1 and that a pair of endless belts is two of an endless belt like the endless belt shown in Fig. 1.

In view of the above, Applicants submit that the objection is overcome, and withdrawal of the objection is respectfully requested.

**Rejection under 35 U.S.C. 112, First Paragraph**

On page 3 of the Office Action, in paragraph 1, claims 6-12 and 18-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

**The Examiner's Position**

The Examiner's position is that the pair of endless belts and other structure claimed in claims 7-12 and 18-24 are not described and shown by the disclosure.

Further, on page 6 of the Office Action, the Examiner indicates that the original specification does not support an element 54 which is linear and which extends orthogonally away from a middle portion of the handlebar 46. The Examiner indicates that handle 54 is not integral with the handlebar 46 and handle 54 is not in the "middle portion"; rather, handle 46 possesses a middle portion which cannot be seen due to the display. The Examiner indicates that handle 54 is a separate handlebar.

In addition, the Examiner indicates that Fig. 2 is defective because it fails to teach main things, namely, whether the belts are equal sized and how the extra pair of rollers is supported on the frame. The Examiner indicates that Applicant has introduced a central

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support between the pair of treadmills for supporting the rollers, and that this structure lacks support in the specification.

The Examiner indicates that the adage "a picture is worth a thousand words" is applicable here, and in most cases, a drawing is more detailed than the written disclosure.

Further, in his supplemental remarks, the Examiner indicates on page 7 of the Office Action that there are several elements shown in Fig. 2 which do not necessarily follow from the specification as originally filed and thus are considered new matter, including with respect to handlebar element 54. In this regard, the Examiner indicates that it isn't a case of whether one would understand that the handlebar would extend perpendicularly and linearly from the middle of the main handle, nor that the extra pair of rollers can be supported on the frame in the manner shown in Fig. 2 but not Fig. 1. The Examiner further indicates that this structural arrangement isn't "readily envisioned by one skilled in the art", contrary to Applicants' assertion.

**Applicants' Response**

In response, Applicants submit that the present claims satisfy the requirements of 35 U.S.C. 112, first paragraph, and request that the Examiner reconsider and withdraw this rejection in view of the following remarks.

*Claims 7-12 and 19-24*

In response, Applicants submit initially that contrary to the Examiner's position, the pair of endless belts and other structure recited in the claims are described and shown in the specification at, e.g., in the description from page 5, line 13 to page 6, line 16 and in the description in the last paragraph on page 7 in the application. Further, Applicants

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submit that this disclosure is sufficient, particularly when the knowledge in the art is considered, even without considering the drawings in the present case.

In this regard, with respect to the knowledge in the art as to how the extra pair of rollers is supported on the frame, Applicants note that in the Office Action of January 10, 2006, the Examiner himself cited references which teach dual-type treadmills (see paragraph 3 on page 5 of the January 10, 2006 Office Action, as well as the references listed on the PTO-892 form attached to that Office Action). For instance, Fig. 2 in U.S. Patent 5,607,376 and Fig. 1 in U.S. Patent 4,204,673 together with the associated disclosure in each of those patents is evidence of the knowledge in the art as to how an extra pair of rollers is supported on a frame (see the attached copies of U.S. Patents 5,607,376 and 4,204,673). As set forth in MPEP 2164.05, an applicant may cite references to show what one skilled in the art knew at the time of filing the application. Further, as set forth in MPEP 2164.05(a), the specification need not disclose what is well-known to those skilled in the art and preferably omits that which is well-known to those skilled and already available to the public. *In re Buchner*, 929 F.2d 660, 661 18 USPQ2d 1331, 1332 (Fed. Cir. 1991), *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1384, 231 USPQ 81, 94 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 947 (1987); and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1463, 221 USPQ 481, 489 (Fed. Cir. 1984).

Further, Applicants submit that element 54 (relevant to claims 12 and 24) is supported by, e.g., the disclosure at page 7, lines 13-17 in the original specification. From this description, Applicants submit that one skilled in the art would readily envision

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an element 54 that is linear and extends orthogonally away from a middle portion of the handlebar 46. While the Examiner indicates that handle 54 is not integral with the handlebar 46 and that handle 54 is not the "middle portion" but rather handle 46 possesses a middle portion which cannot be seen due to the display and handle 54 is a separate handlebar, Applicants submit that one skilled in the art would readily envision middle portion 54 based on the description in the last paragraph on page 7 in the application and would understand that middle portion 54 is connected to the middle part of handle bar 46, as discussed at page 7, lines 13-14. In this regard, Applicants submit that the Examiner is confusing "middle portion" with "middle part" as those terms are used in the specification, e.g., in the last paragraph on page 7.

In regard to Fig. 2, Applicants submit that the answers to the issues raised by the Examiner, namely, whether the belts are equal sized and how the extra pair of rollers is supported on the frame, would be readily understood by one skilled in the art in view of the aforementioned disclosure at page 5, line 13 to page 6, line 16, and the knowledge in the art (e.g., Fig. 2 in U.S. Patent 5,607,376 and Fig. 1 in U.S. Patent 4,204,673 together with the associated disclosure in each of those patents), as discussed above.

With respect to the Examiner's indication that the adage "a picture is worth a thousand words" is applicable here and that in most cases a drawing is more detailed than the written disclosure, Applicants again submit that the figures in the present application are supported by, e.g., the written disclosure on pages 5-7 as discussed above, particularly when that disclosure is considered in view of the skill in the art, as discussed above.

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As to the Examiner's indication that the drawing changes added new matter, Applicants respectfully disagree and submit that the drawing changes are supported by the specification as originally filed, including the disclosure at page 5, line 13 to page 6, line 16 and in the description in the last paragraph on page 7 as discussed above. With respect to the Examiner's indication that the "readily envisioned by one skilled in the art" argument is subjective, Applicants disagree and submit that one skilled in the art considering the disclosure in the present specification together with the knowledge in the art (such as U.S. Patents 5,607,376 and 4,204,673 discussed above) would be able to readily envision the claimed invention. Regarding the Examiner's question as to how the new subject matter is readily envisioned by the prior art if the prior art doesn't teach the claimed invention, Applicants submit that the subject matter at issue is readily envisioned by the disclosure in the present specification taken together with the knowledge in the art. As to the Examiner's indication that it still remains unclear how one would realize the linear, horizontal element of the proposed drawing in addition to how it would be attached to the handle bar 46 from a reading of the specification, Applicants submit that the description in the last paragraph on page 7 in the specification (including the disclosure that the middle portion can extend back from a middle part of the front portion and that, when not desired, the middle portion either can be pivoted so that it hangs down from the front portion or can be removed) is sufficient to describe the linear, horizontal element of the proposed drawing in addition to how it would be attached to the handle bar 46.

*Claims 6 and 18*

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Applicants submit that claims 6 and 18 are adequately described in a manner similar to that discussed above with respect to claims 12 and 24, except that the issue of the pair of belts and other structure recited in independent claims 7 and 19 does not arise since claims 6 and 18 depend from claims 1 and 13, respectively (in contrast to claims 12 and 24, which depend from claims 7 and 19, respectively).

That is, Applicants submit that element 54 in Fig. 1 is supported by, e.g., the disclosure at page 7, lines 13-17 in the original specification. From this description, Applicants submit that one skilled in the art would readily envision an element 54 that is linear and extends orthogonally away from a middle portion of the handlebar 46. While the Examiner indicates that handle 54 is not integral with the handlebar 46 and that handle 54 is not the "middle portion" but rather handle 46 possesses a middle portion which cannot be seen due to the display and handle 54 is a separate handlebar, Applicants submit that one skilled in the art would readily envision middle portion 54 based on the description in the last paragraph on page 7 in the application and would understand that middle portion 54 is connected to the middle part of handle bar 46, as discussed at page 7, lines 13-14. In this regard, Applicants submit that the Examiner is confusing "middle portion" with "middle part" as those terms are used in the specification, e.g., in the last paragraph on page 7.

Further, Applicants submit that the description in the last paragraph on page 7 in the specification (including the disclosure that the middle portion can extend back from a middle part of the front portion and that, when not desired, the middle portion either can be pivoted so that it hangs down from the front portion or can be removed) is sufficient to

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describe the linear, horizontal element of the proposed drawing in addition to how it would be attached to the handle bar 46.

Thus, Applicants submit that claims 6-12 and 18-24 satisfy the requirements of 35 U.S.C. 112, first paragraph, and withdrawal of this rejection is respectfully requested.

**Anticipation Rejections**

On page 4 of the Office Action, in paragraph 4, claims 1-3 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Moon et al, and claims 1-3 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Kelsey et al.

In response, Applicants note initially that claim 1 has been amended to recite a treadmill having an endless belt which is wide enough to accommodate two treadmill users side-by-side, wherein the two treadmill users are two adult people.

Applicants submit that neither Moon nor Kelsey teaches or suggests such a wide belt. If the Examiner wishes to maintain this argument, he is requested to identify the specific disclosure in Moon and Kelsey which he considers anticipatory.

In this regard, Applicants note that MPEP 2125 states that when a reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. "[I]t is well established that patent drawings do not define the precise proportions of the elements and

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may not be relied on to show particular sizes if the specification is completely silent on the issue.").

In view of the above, Applicants submit that the present invention is not anticipated by (or obvious over) either Moon or Kelsey. Accordingly, withdrawal of these rejections is respectfully requested.

**Obviousness Rejection over Moon in view of Derksen**

On page 4 of the Office Action, in paragraph 3, claims 1-5 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al in view of Derksen.

In response, Applicants wish to emphasize that the invention represents a change in kind rather than merely a change in degree. The invention product is intended to be used by two treadmill users, not one treadmill user as is intended by Moon. In particular, the present invention permits two treadmill users to exercise side-by-side while holding hands, which has not been possible previously, either in Moon or elsewhere. Thus, the invention is directed to an entirely different market than that targeted by Moon, namely, companion exercisers rather than a solo exerciser. This is a change in kind, not a change in degree.

Further, even though both Moon and Derksen include rollers and belts and therefore inherently have belt widths, and even though both are used to exercise mammals for a gaiting type exercise, Applicants submit that one of ordinary skill in the art would not have combined them to arrive at the present invention.

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In this regard, Applicants wish to emphasize that Derksen is directed to a treadmill for a horse, while the Moon treadmill, with its specifically positioned control panel, is not intended to be used by a horse, and there is no reason in the art, either explicitly or implicitly, why one would use the Derksen belt in the Moon treadmill.

As to the Examiner's assertion with respect to the method claims that such a sized treadmill could be used for any desired function, such as accommodating plural animals, Applicants submit that there is simply no teaching or suggestion in the cited art that exercising plural animals at the same time is a desired function, and thus the method claims, which are directed to exercising two treadmill users side-by-side on a single treadmill, are not obvious over the cited art for this additional reason.

Thus, Applicants submit that the present invention is not obvious over Moon in view of Derksen, and withdrawal of this rejection is respectfully requested.

**Obviousness Rejection over Kelsey**

On page 5 of the Office Action, claims 1-5 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey et al.

The Examiner's position is that Kelsey discloses a treadmill as depicted in Figure 2 having an adult male supported thereon, and the Examiner indicates that the Kelsey treadmill width in Figure 2 appears to be approximately 40-45 inches, based on the relative dimensions of the user and the treadmill. In this regard, the Examiner considers Figure 2 to be an accurate representation of the proportionality of the treadmill with

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respect to the user, and that it is proper to approximate the width of the treadmill given the proportional dimensions provided in Figure 2.

In response, Applicants note that as set forth above, MPEP 2125 states that when a reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value. See *Hockerson-Halberstadt, Inc. v. Avia Group Int'l*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000) (The disclosure gave no indication that the drawings were drawn to scale. "[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.").

Applicants submit that Kelsey does not disclose that the drawings are to scale and is silent as to dimensions. Thus, Applicants submit that the Examiner's arguments based on measurement of the drawing features are of little value.

Applicants note that Kelsey is directed to a single person using a treadmill, and there is no reason why one would make the belt wide enough to be used by two treadmill users as in the present invention.

Further, as to the method claims in particular, since Kelsey is directed to a single person using a treadmill Applicants submit that there is simply no teaching or suggestion in Kelsey of exercising two treadmill users side-by-side on a single treadmill, and thus the method claims are not obvious over the cited art for this additional reason.

Thus, Applicants submit that the present invention is not obvious over Kelsey, and withdrawal of this rejection is respectfully requested.

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**Conclusion**

For at least the above reasons, Applicants submit that the present invention is now in condition for allowance.

If the Examiner wishes to discuss this application with the undersigned, he is requested to contact the undersigned at the local address and telephone number listed below.

In view of the above, allowance of the application is respectfully requested.

Respectfully submitted,

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